

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MINNESOTA**

In re:

JODY M. & BARBARA A. LONG

Bky Case No. 03-35770

Chapter 7

Debtors.

**NOTICE OF MOTION
AND MOTION FOR TURNOVER**

TO: The Debtors, and other entities specified in Local Rule 9013-3(a).

1. Michael S. Dietz, Trustee for the bankruptcy estate of the above debtors, moves the court for the relief requested below and gives notice of hearing.

2. The court will hold a hearing on this motion at 2:30 p.m. on October 20, 2004, in Courtroom No. 228A, United States Courthouse, at 316 North Robert Street in St Paul, Minnesota.

3. Any response to this motion must be filed and delivered not later than 2:30 p.m. on October 13, 2004, which is seven days before the time set for the hearing, or filed and served by mail not later than October 10, 2004, which is ten days before the time set for the hearing.

**UNLESS A RESPONSE OPPOSING THIS MOTION IS TIMELY FILED, THE COURT
MAY GRANT THE MOTION WITHOUT A HEARING.**

4. This court has jurisdiction over this motion pursuant to 28 U.S.C. § 157 and 1334, Bankruptcy Rule 5005 and Local Rule 1070-1. This proceeding is a core proceeding. The petition commencing this chapter 7 case was filed on August 21, 2003. The case is now pending in this court.

5. This motion arises under 11 U.S.C. § 542(a). This motion is filed under Bankruptcy Rule 9014 and Local Rules 9013-9019.

6. The Debtors' received a settlement check for \$2,277.20 from Household-Beneficial in April, 2004. This property was not scheduled nor claimed as exempt. Therefore, it is property of the bankruptcy estate. Movant requests relief with respect to turnover of the \$2,277.20 representing the settlement payment.

7. The Trustee has made requests from the period of March 11, 2004 to June, 2004. The Debtors have not cooperated by turning over the check.

8. The undersigned believes that pursuant to Local Rule 9013-5, this notice and motion contain an adequate statement of law and fact upon which the undersigned will rely at the hearing on this matter.

WHEREFORE, the Trustee moves the court for an order that Debtors' turnover a check for \$2,277.20.

Dated: October 4,
2004

DUNLAP & SEEGER, P.A.

By: /e/ Michael Dietz
Michael S. Dietz
Registration No. 188517
Attorneys for Trustee
206 S. Broadway, Suite 505
Marquette Bank Building
P.O. Box 549
Rochester, Minnesota 55903-0549
Telephone: (507) 288-9111

VERIFICATION

I, Michael S. Dietz, Trustee, the moving party named in the foregoing notice of hearing and motion, declare under penalty of perjury that the foregoing is true and correct according to the best of my knowledge, information and belief.

Executed on: October 4,
 2004

/e/ Michael Dietz

Michael S. Dietz, Trustee
206 South Broadway, Ste 505
Post Office Box 549
Rochester, Minnesota 55903

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re:

Bankruptcy Case No. 03-35770

JODY M & BARBARA A LONG,

Debtors.

UNSWORN CERTIFICATE OF SERVICE

I, Emily D. Stenhoff, declare under penalty of perjury that on October 4, 2004, I mailed copies of the following:

Trustee's Notice of Motion and Motion for Turnover

by US Mail, postage pre-paid, to each entity named below at the address stated below:

OFFICE OF THE US TRUSTEE
1015 UNITED STATES COURTHOUSE
300 SOUTH FOURTH STREET
MINNEAPOLIS MN 55415

STEPHEN R ECKER
302 1ST AVE NW
FARIBAULT MN 55021

JODY M & BARBARA A LONG
510 5TH ST
WEST CONCORD MN 55985

Executed on October 4, 2004

Signed: Emily Stenhoff

Emily D. Stenhoff
DUNLAP & SEEGER, P.A.
P O BOX 549
ROCHESTER MN 55903-0549
(507) 288-9111

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ORDER

AT ST. PAUL, MINNESOTA.

The above matter came before the Court on October 20, 2004, upon the motion of the Trustee for turnover of a check in the amount of \$2,277.20 from the settlement with Household-Beneficial. Appearances, if any, were noted on the record.

Based upon documents filed herein, and the arguments of counsel,

IT IS ORDERED, within ten days of this Order, Debtors shall deliver to Trustee:

1. A check payable to Michael S. Dietz, Trustee for the bankruptcy estate of John M. & Barbara A. Long in the amount of \$2,277.20

Dated: _____

BY THE COURT:

Dennis D. O'Brien
United States Bankruptcy Judge